

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

## **DEFENDANT'S SENTENCING MEMORANDUM**

Pursuant to this Court's schedule, Defendant Xavier M. Daughenbaugh ("Defendant") hereby submits this Memorandum in advance of his sentencing hearing scheduled for September 24, 2024 at 11:00a.m.

The Defendant stands before the Court to admit responsibility and accept an appropriate punishment for his actions. This Memorandum is intended to provide the Court with an account of the Defendant's actions and the broader context of his life. It is asserted that a sentence between 36-78 months would be sufficient but not greater than necessary to achieve the statutory goals of sentencing. As such, the Defendant requests that the plea agreement entered pursuant to Rule 11(c) (1)(C) of the Federal Rules of Criminal Procedure be accepted.

The Defendant agrees to the guidelines as calculated by the U.S. Probation Officer. He also concurs with the statement of the facts, nature and circumstances of the offense, as well as the summary of his history, background and character as set forth in the Pre-Sentence Investigation Report (“PSR”). There are no unresolved objections for the Court’s consideration.

### **§ 3553(a) Sentencing Factors**

Counsel submits that a sentence at the low-end of the Parties' Rule 11(c)(1)(C) agreed sentencing disposition—a sentence of imprisonment between 36 and 78 months—is sufficient, but not greater than necessary, to comply with the statutory purposes of sentencing. Consideration of the 18 U.S.C. § 3553(a) factors weigh in favor of such a sentence. Those factors are addressed below.

#### *The Nature and Circumstances of the Offense*

The nature and circumstances of the Defendant's offenses are serious. On April 24, 2024, he pled guilty to Count 7 of the Indictment, Possession of Child Pornography. This is his first felony conviction as an adult. Count 2 of the Indictment was dismissed. The Defendant utilized the Telegram mobile app to send and receive messages with Co-Defendant David Hamilton who sent image and video files depicting child sexual abuse material. These serious circumstances were considered by the Parties in reaching the agreed sentencing disposition in this case—a sentence of imprisonment between 36 and 78 months.

#### *The Defendant's History and Character*

The Defendant's was born in Frankfort, Kentucky. His father lives in Florence, Oregon, and his mother lives in Glasgow, Kentucky. He has one biological sibling, two half-siblings, and one stepsibling. His parents never married, and he was primarily raised by his mother. He last saw his stepfather when he was five or six years old, as his stepfather is currently serving a term of imprisonment for rape. His mother often engaged in short-term relationships with different men, none of whom had a positive influence on this Defendant. These men were often verbally and physically abusive to the Defendant, his mother and siblings. His mother was often arrested for fighting with her significant other, and Children Services were involved in his upbringing at least

six times. The Defendant was removed temporarily from his home to live with other family members when Children Services was involved. His mother struggled to provide adequate financial support to the family. He often witnessed narcotic transactions and violent offenses as he was raised in low-income and middle-class neighborhoods. This Defendant struggled with his mental health as a youth, and he possesses scars on his left forearm from self-mutilation. Clearly he did not have a father figure in his life during his formative years. Even with all of these difficulties, the Defendant graduated from Barren County High School in Glasgow, Kentucky in May 2020. He moved to Ohio in 2020 and still shares a relationship with his maternal family. He speaks most often to his sister, Elizabeth, who is an accountant living in Louisville, Kentucky. Xavier has no children. This is a 22-year-old who was adversely influenced by David Hamilton.

*The Sentencing Guidelines*

The Probation Officer correctly calculated the Total Offense Level as 28, as well as the Criminal History Category (“CHC”),

**Conclusion**

Defendant respectfully requests that the Court accept the Plea Agreement and impose a sentence at the low-end of the agreed upon 36–78 months of incarceration. This sentence would be sufficient but not greater than necessary to achieve the statutory goals of sentencing. Undersigned Counsel intends to elaborate on the foregoing during the sentencing hearing.

EASTMAN & SMITH LTD.

/s/ Karl H. Schneider  
Karl H. Schneider (0012881)  
EASTMAN & SMITH LTD.  
250 Civic Center Dr., Suite 280  
Columbus, Ohio 43215  
Telephone: (614) 564-1445  
Facsimile: (614) 469-4653  
E-Mail: [khschneider@eastmansmith.com](mailto:khschneider@eastmansmith.com)

*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing has been filed electronically this 17th \_\_\_ day of September 2024. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Karl H. Schneider  
*Attorney for Defendant*